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December 22, 2004

**VIA HAND DELIVERY**

Chairman Pat Miller  
Attn. Document Room  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, TN 37243-0505

**Re: Docket 04-00434**

**Comments from the City of Pigeon Forge on the Forum to Gather  
Information on the Certification, Permitting, and Installation of  
Waste Water Systems**

Dear Chairman Miller

Pursuant to the Notice of Filing dated December 15, 2004, the City of Pigeon Forge ("City") respectfully submits the following comments on the above-referenced Forum hosted by the Tennessee Regulatory Authority ("TRA") on December 9, 2004. One of the issues discussed at the forum was the role of Public Chapter 1101 (T C A § 6-58-101 *et seq*) and urban growth and planning in the certification of de-centralized waste water systems. The City's comments are primarily directed to this issue.

- 1 De-centralized waste water systems are better suited for project specific Certificates rather than geographically based Certificates.

A geographically-based territory does not make sense for the decentralized sewer services that de-centralized waste water systems offer. It is our understanding that a de-centralized sewer system is self-contained and includes a treatment facility for a specific project or development, such as a planned unit development (condos, apartments, housing developments, etc.). On the other hand, a centralized sewer system like the City operates uses a network of lines, mains and pumping stations all leading to a processing facility for treatment. A de-centralized sewer system enables project development on a property that would otherwise be inappropriate for more conventional septic systems, and, because of the property's location, does not have a centralized sewer service system available to it.

Unlike centralized sewer systems, these decentralized systems can be installed and operated almost anywhere. They are not dependent upon the existence and availability of an

area-wide infrastructure like sewer mains and treatment facilities. Therefore, whereas geographic areas may make sense for centralized utilities, geographic areas have little to do with the rendering of services for decentralized systems.

2. Urban growth and planning issues should be considered by the TRA in decisions to grant or deny Certificates to de-centralized waste water systems

At the Forum, Senator Bob Rochelle spoke briefly about the role of Public Chapter 1101 and urban growth areas in decisions by the TRA with respect to de-centralized waste water systems. (Transcript, pp. 34-39 ) Senator Rochelle noted that urban growth boundaries are a factor, among several, that the TRA should consider. (Trans. p 36.) The City agrees with Senator Rochelle

More specifically, when granting or denying a Certificate, the TRA should make its determination of public convenience and necessity consistent with prior public necessity determinations made by other state agencies. The TRA should be mindful that the State of Tennessee in many cases has already made a determination of "public convenience and necessity" through the establishment of planning regions and urban growth boundaries. The State, through the Department of Economic and Community Development, has organized a system whereby planning regions are created across the state to encourage efficient and orderly development See, T C A. 13-3-101 *et seq.* In the City's case, through cooperation between the Department of Economic and Community Development, Sevier County, and the City of Pigeon Forge, the state designated Pigeon Forge's Planning Commission as the state regional planning commission for the urban growth area pursuant to T.C.A § 13-3-102.

Urban growth areas by definition are areas identified as future parts of the municipality as development occurs and services are made available. Municipalities like Pigeon Forge have a vested interest in the orderly and efficient development of the urban growth area, since its utility infrastructure will become part of the City's infrastructure This explains one reason why the State designated the City's planning commission as the state's planning commission for development in the urban growth area

3. Broad, geographic Certificates are generally inconsistent with urban growth plans.

Blanket, countywide Certificates that include a city's urban growth area would be inconsistent with that city's urban growth plan Such a Certificate promotes chaotic and inefficient development in the urban growth area, thereby undermining the urban growth plan and straining the ability of a city to meet all the utility needs of the residents in the urban growth area Obviously, a plan for orderly and efficient growth looks for development in a manner in which roads and other essential utilities can be available in a reasonable and cost effective manner. Premature development made possible by the availability of certain utilities, but not all utilities puts a strain on a development plan.

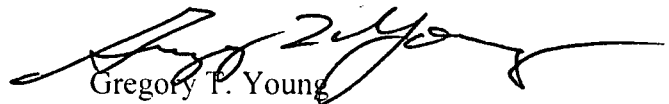
For example, under geographically-based certificate, a de-centralized waste water utility could agree to serve a project in the urban growth area without further review by the TRA. This project may be in an area where the current urban growth plan does not provide for general

utilities support (roads, water, sewer, etc) for several more months. The project's development at the wrong time then causes a burst of unexpected development and results in a stress on the other utilities contrary to a city's urban growth plans.

The TRA should consider such consequences and seek to compliment and dovetail its own public convenience and necessity determination with other public need determinations made by the State. By entertaining certificates on a project-by-project basis, the approval process would allow the Authority to hear evidence on the subject project's consistency with the other needs determinations for the county and the urban growth area. This is particularly true in areas such as urban growth areas, where concerted efforts are made by the State to provide for orderly and efficient development.

The City appreciates the opportunity to submit these comments and hopes that the TRA will consider these comments in determining whether to grant or deny Certificates and in the development of any regulations for de-centralized waste water utilities.

Sincerely,



Gregory T. Young

cc. (via U.S. Mail) Hon Earlene Teaster  
Jim Gass, Esq.